



PUBLIC NOTICE

**Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554**

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DA- 06-1950

**Before the
Federal Communications Commission
Washington, D.C. 20554**

PUBLIC NOTICE

Released: September 29, 2006

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

BDI Broadcasting, Inc. – KIKV (FM) and KULO (FM) Request for waiver of the late payment penalties for the FY 2005 regulatory fees. **Denied** (July 26, 2006) [*See* 47 C.F.R. §1.1164]

BL Broadcasting, Inc. - Request for waiver of the late payment penalties for the FY 2005 regulatory fees. **Denied** (July 26, 2006) [*See* 47 C.F.R. §1.1164]

LA Terr Broadcasting Corporation - KTIB (AM) Request for waiver of FY 2004 and 2005 regulatory fees. **Granted** (July 26, 2006) [*See* Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759, 12762 (1995)]

Paul Bunyan Broadcasting Corporation – KBUN (FM) and KBHP (FM) Request for waiver of the late payment penalties for the FY 2005 regulatory fees. **Denied** (July 26, 2006) [*See* 47 C.F.R. §1.1164]

Reading Broadcasting, Inc. – WTVE (TV) and WTVE (DT) Request for waiver of FY 2005 regulatory fees. **Denied** (July 20, 2006) [*See* Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759, 12762 (1995)]

Sunshine Broadcasters, Inc. - WIGN Request for waiver of the late payment penalty for the FY 2005 regulatory fee. **Denied** (July 26, 2006) [*See* FY 2005 Report and Order at ¶ 45-49; 47 U.S.C. §159; 47 C.F.R. §1.1157]

Telco Group, Inc. Request for waiver of FY 2005 regulatory fee. **Granted** (August 16, 2006) [*See* Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUL 26 2006

OFFICE OF
MANAGING DIRECTOR

John Wells King, Esq.
Garvey Schubert Barer
~~Flour Mill Building~~
1000 Potomac Street, NW
Fifth Floor
Washington, D.C. 20007-3501

Re: BDI Broadcasting, Inc.
Request for Waiver of Late Charge Penalty
for FY 2005 Regulatory Fees
Fee Control Nos. 0603148340828003 and
0603148340827001

Dear Mr. King:

This is in response to your request dated March 30, 2006 (*Request*), for waiver of the penalty for late payment of the Fiscal Year (FY) 2005 regulatory fees, filed on behalf of BDI Broadcasting, Inc. (BDI), licensee of Station KIKV-FM, Sauk Centre, Minnesota, and Station KULO(FM), Alexandria, Minnesota. Our records reflect that you have paid the \$1,755.00 and \$843.75 FY 2005 regulatory fees for Stations KIKV-FM and KULO(FM), respectively. Our records also reflect that you have not paid the \$545.00 and \$281.25 late charge penalties for Stations KIKV-FM and KULO(FM), respectively. For the reasons stated herein, we deny your request.

You recite that BDI "timely tendered its Form 159 Remittance by letter of transmittal dated August 22, 2005, for payment by credit card."¹ You state that "[i]t was sent to the Commission's lockbox bank fee filing facility at Mellon Bank by UPS overnight, and received and signed for on August 23, 2006[.]"² In support, you submit two UPS documents entitled "Track by Tracking Number" and "Shipment Receipt" indicating that a package was sent by UPS from your office to Mellon Bank on August 23, 2005.³ You assert that BDI "did everything within its power and control to pay its regulatory fee in a timely manner."⁴ You maintain "that administrative error or oversight occurred on the

¹ *Request* at 1.

² *Id.*

³ See Letter from John Wells King, Esq. to Marvin Washington, Acting Chief, Office of the Managing Director, FCC, Attachments (Feb. 21, 2006). The UPS documents reflect that the UPS-assigned tracking number for the package was 1Z8V41410199237760.

⁴ *Request* at 1.

other side of the fee cage” and that “the failure to timely process the licensee’s annual regulatory fee was due to . . . error [on the part of Mellon Bank, the Commission’s lockbox bank].”⁵ You state that “[i]t was not due to circumstances within the licensee’s control, nor was the credit card payment uncollectible.”⁶

The Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner. It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. Although you assert timely payment was made, Mellon Bank’s records reflect that the UPS package associated with the tracking number that you claim contained BDI’s FCC Form 159 and credit card payment for the FY 2005 regulatory fees for the stations in question in fact contained Form 159’s and check payments for three unrelated entities in amounts that do not correspond to the FY 2005 fees associated with Stations KIKV-FM and KULO(FM).⁷ Further, our records show that the Commission did not receive an FCC Form 159 or full payment of the FY 2005 regulatory fees for Stations KIKV-FM and KULO(FM) by September 7, 2005, the filing deadline. Because your request does not indicate or substantiate that BDI submitted the FY 2005 regulatory fees for Stations KIKV-FM and KULO(FM) by the deadline for filing regulatory fees, we deny your request for waiver of the late charge penalties.

Payment of the \$545.00 and \$281.25 late charge penalties for Stations KIKV-FM and KULO(FM) for FY 2005 is now due. The late charge penalties should be submitted, together with a Form 159 (copy enclosed), within 30 days of the day of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at 418-1995.

Sincerely,



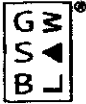
 Mark Stephens
Acting Chief Financial Officer

Enclosure

⁵ *Id.*

⁶ *Id.*

⁷ The package contained FCC Form 159’s and check payments associated with Conner Family Broadcasting, Inc. (licensee of Stations WRMS-FM and WLG803), Radio Plus of Fond du Lac (licensee of Stations WFDL-FM and WMF992), and Radio Plus, Inc. (licensee of Stations WFDL, WMDC, KK4433, and WPUU989). The checks were in the amount of \$460.00, \$1,560.00, and \$1,245.00.



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GARVEY SCHUBERT BARER

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GSBLAW.COM

0603148340828003

Please reply to JOHN WELLS KING
jking@gsblaw.com TEL EXT 2520

March 30, 2006

BY HAND DELIVERY

Marvin Washington, Acting Chief
Revenue & Receivables Operations Group
Office of the Managing Director
Federal Communications Commission
Washington, DC 20554

FO WAIVER TRACKING
CNTL# 7018

**Re: BDI Broadcasting, Inc.
2005 Annual Regulatory Fee**

Subject: Request for Waiver of Penalty

Dear Mr. Washington:

This letter is filed at the informal direction of your staff concerning the 2005 annual regulatory fees paid by BDI Broadcasting, Inc., for the following broadcast stations:

KIKV-FM, Sauk Centre MN
KULO(FM), Alexandria MN

The licensee respectfully requests waiver of the penalty prescribed by Section 1.1164, based on the following information. The licensee timely tendered its Form 159 Remittance by letter of transmittal dated August 22, 2005, for payment by credit card. It was sent to the Commission's lockbox bank fee filing facility at Mellon Bank by UPS overnight, and was received and signed for on August 23, 2006, by "Zeransky." By prior correspondence to you dated February 21, 2006, I provided you with a copy of the letter of transmittal and the confirmation of shipment and receipt.

The licensee did everything within its power and control to pay its regulatory fee in a timely manner. It is evident that administrative error or oversight occurred on the other side of the fee cage. When the failure to process the credit card charges came to the licensee's attention, it promptly and responsively worked with your office to ascertain the problem, and, at the request of your staff, the licensee resubmitted its Form 159 Remittance by transmittal dated March 9, 2006.

Evidently the failure to timely process the licensee's annual regulatory fee was due to bank error. It was not due to circumstances within the licensee's control, nor was the credit card payment uncollectible. The licensee has a long history of timely payment of its annual regulatory fees.



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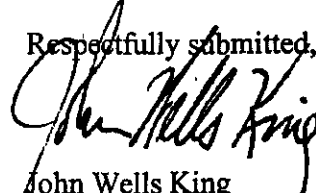
March 30, 2006

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Under these circumstances, the licensee respectfully submits that a waiver of the penalties is warranted and justified. It is so requested.

Kindly communicate any questions directly to this office.

Respectfully submitted,



John Wells King

JWK:yg

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